

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

26885

FILE: B-209960**DATE:** November 18, 1983**MATTER OF:** Shuler Business Systems, Inc. --
Appeal of Claim Settlement Action**DIGEST:**

Where conflicting statements of the claimant and the procuring activity are the only evidence as to whether or not the activity made a telephone request for the repairs in issue, the claimant clearly has failed to meet its burden of affirmatively proving that the telephone request was ever made.

Shuler Business Systems, Inc. appeals the July 25, 1983 settlement action by our Accounting and Financial Management Division - Claims Group, disallowing the firm's claim in the amount of \$145.36 for repairs made to a Kardveyer system at Fort Campbell, Kentucky. The claim was disallowed because the record contained no evidence that Shuler's serviceman had performed the repairs other than on a purely voluntary basis, or that the government had received any benefit thereby. Shuler now alleges that it performed the repairs in issue in response to a request made by the installation. We see no legal basis upon which to reverse or modify the disallowance of the claim.

Although Shuler now asserts that Fort Campbell personnel made a telephone request for those repairs on December 28, 1981, the day before the services were performed, the firm has offered no supporting evidence to that effect, such as the name and/or job title of the employee allegedly involved or the precise content of the communication. Fort Campbell's Contracting Division continues to maintain that none of its personnel requested the services. Where such conflicting statements are the only evidence regarding this issue, Shuler clearly has not met its burden of affirmatively proving that Fort Campbell personnel ever made the request. Further, we see nothing to cause us to alter the finding of our Claims Group that the government received no actual benefit from Shuler's repairs, because although Shuler's invoice stated that the machine had to be repaired in order to stop it from making excessive noise and to adjust lights not operating properly, the record did not indicate that the repairs were essential or that the machine was inoperable.

027281

B-209960

The settlement action of July 25, 1983 disallowing Shuler's claim is affirmed.

for Harry R. Dan Clave
Comptroller General
of the United States